

STAFF REPORT

Meeting Date: March 19, 2003

TO: LAFCO Commissioners

FROM: Everett Millais, Executive Officer

SUBJECT: Consent to Waivers of Conflict of Interest – LAFCO Counsel/County Counsel

A. Resolution Consenting to Waiver of Conflict of Interest - LAFCO 03-03 City of Oxnard Reorganization – Fifth & Patterson, LLC, and LAFCO 03-04 Calleguas Municipal Water District Annexation – Fifth & Patterson, LLC

B. Resolution Consenting to Waiver of Conflict of Interest - Ventura County Open Space District

RECOMMENDATION:

- A. Approve a resolution waiving any conflict of interest for the Ventura County Counsel to advise both the Oxnard Airport Authority and the Ventura LAFCO in matters relating to LAFCO 03-03 City of Oxnard Reorganization – Fifth & Patterson, LLC, and LAFCO 03-04 Calleguas Municipal Water District Annexation – Fifth & Patterson, LLC.
- B. Approve a resolution waiving any conflict of interest for the Ventura County Counsel to advise both the Ventura County Board of Supervisors and the Ventura LAFCO in matters relating to the possible formation of a Ventura County Open Space District.

COMMISSIONERS AND STAFF

COUNTY: Steve Bennett Kathy Long <i>Alternate:</i> Linda Parks	CITY: John Zaragoza, Vice Chair Evaristo Barajas <i>Alternate:</i> Don Waunch	SPECIAL DISTRICT: Jack Curtis Dick Richardson <i>Alternate:</i> Ted Grandsen	PUBLIC: Louis Cunningham, Chair <i>Alternate:</i> Kenneth M. Hess
EXECUTIVE OFFICER: Everett Millais	PLANNER III: Hollie Brunsky	CLERK: Debbie Schubert	LEGAL COUNSEL: Noel Klebaum

DISCUSSION:

The Ventura County Counsel has been designated as the Legal Counsel for the Ventura LAFCO pursuant to a Memorandum of Agreement (MOA) between the Ventura LAFCO and the County of Ventura. At the time the MOA was approved it was recognized that there could be occasions where a conflict of interest could arise when the County Counsel provides advice to the County and related County agencies on matters that also require action by LAFCO. Accordingly, the MOA states, "In the event of a potential or actual conflict of interest, the County Counsel shall use his best efforts to resolve the conflict, or to arrange for alternate counsel for LAFCO."

The possibility of a potential or actual conflict of interest with LAFCO using County Counsel services does not arise often. At present, however, there are two pending matters where there is a potential conflict of interest. Accordingly, in order for the County Counsel to be able to advise and represent LAFCO in either of these two matters the California Rules of Professional Conduct require that the potential conflict be disclosed to the Commission and that an informed written consent be obtained from all parties. Both the County Counsel and I agree that in both of these instances it will be beneficial for LAFCO to consent to waive any conflict of interest rather than hiring or otherwise involving outside legal counsel.

The first instance relates to LAFCO Cases 03-03 and 03-04, respectively involving a City of Oxnard reorganization and an annexation to Calleguas Municipal Water District for property adjacent to the Oxnard Airport. These matters are on the March 19, 2003 LAFCO agenda. There is a potential conflict of interest in these cases as the County Counsel is responsible for representing the Oxnard Airport Authority and the Ventura County Department of Airports. The Oxnard Airport Authority has reviewed the proposed development and also reviewed and commented on a potential elementary school that might be located on the property. As such, it is possible that representatives from the Oxnard Airport Authority, the Ventura County Department of Airports and/or members of the public interested in the operations of Oxnard Airport, might comment on either or both of these cases. In order for the County Counsel to be able to also advise and represent LAFCO it is recommended that the Commission adopt the attached resolution consenting to representation by the County Counsel notwithstanding any potential conflict of interest. The Oxnard Airport Authority is being requested to adopt a similar conflict of interest waiver at its meeting on March 13, 2003. I will be attending that meeting to respond to any LAFCO related questions. Both the Oxnard Airport Authority and LAFCO must consent to waiving any conflict of interest; otherwise the County Counsel will not be able to advise or represent LAFCO in these matters.

The second instance involves the formation of a possible County Open Space District. Based on special legislation approved in 2002, the Board of Supervisors appointed an Open Space District Advisory Committee to make recommendations about the

Staff Report

Consent to Waivers of Conflict of Interest – LAFCO Counsel/County Counsel

March 19, 2003

Page 2 of 3

boundaries and formation of an Open Space District. The formation of such a District requires approval by LAFCO. The County Counsel is responsible for advising and representing County staff, the Open Space Advisory Committee and the Board of Supervisors about the formation of an Open Space District, including proceedings with LAFCO. The Open Space Advisory Committee has been meeting for a number of months and is expected to make recommendations to the Board of Supervisors within the next few months. Depending on actions by the Board of Supervisors, an application initiating proceedings for the possible formation of an Open Space District could be filed with LAFCO as early as this summer.

Because of the overlap of issues involving the County and LAFCO concerning the formation of a possible Open Space District, the likely extended nature of the proceedings with both the County and LAFCO, and commonality of objectives, it is recommended that the Commission adopt the attached resolution waiving conflict of interest for all matters relating to the formation of a County Open Space District. The Board of Supervisors will also need to provide its written consent for the County Counsel to represent LAFCO in this matter. Should either LAFCO or the Board of Supervisors not consent to a waiver of conflict of interest, I will be recommending that the Commission budget for and engage outside legal counsel for advice and representation concerning proceedings relating to the formation of a possible Open Space District.

**RESOLUTION OF THE VENTURA LOCAL AGENCY
FORMATION COMMISSION CONSENTING TO THE
COUNTY COUNSEL ADVISING AND REPRESENTING
LAFCO AND WAIVING ANY CONFLICT OF INTEREST
CONCERNING LAFCO 03-03 CITY OF OXNARD
REORGANIZATION – FIFTH & PATTERSON, LLC, AND
LAFCO 03-04 CALLEGUAS MUNICIPAL WATER
DISTRICT ANNEXATION – FIFTH & PATTERSON, LLC**

WHEREAS, the Ventura Local Agency Formation Commission (LAFCO) pursuant to a Memorandum of Agreement with the County of Ventura has designated the Ventura County Counsel as its legal counsel; and

WHEREAS, the territory involved in applications pending with the Ventura Local Agency Formation Commission for LAFCO 03-03 City of Oxnard Reorganization – Fifth & Patterson, LLC, and LAFCO 03-04 Calleguas Municipal Water District Annexation – Fifth & Patterson, LLC is adjacent to the Oxnard Airport; and

WHEREAS, the development of the property that is the subject of both LAFCO 03-03 and LAFCO 03-04 has been reviewed and discussed by the Oxnard Airport Authority, including the possibility of an elementary school being located on a portion of the property; and

WHEREAS, the County Counsel advises and represents the County of Ventura, the Oxnard Airport Authority and the Ventura County Department of Airports; and

WHEREAS, it is possible that the Oxnard Airport Authority and/or the Ventura County Department of Airports may be represented during the Commission's consideration of both LAFCO 03-03 and LAFCO 03-04; and

WHEREAS, the California Rules of Professional Conduct require that legal counsel disclose any potential or actual conflict of interest and obtain the informed written consent of the Oxnard Airport Authority and the Commission before advising or representing LAFCO regarding LAFCO 03-03 and LAFCO 03-04, and

WHEREAS, due to the potential issues involved, it will be beneficial to LAFCO to have the County Counsel jointly advise and represent both the Oxnard Airport Authority and LAFCO in matters relating to LAFCO 03-03 and LAFCO 03-04,

NOW, THEREFORE, BE IT RESOLVED by the Ventura Local Agency Formation Commission that the Commission hereby waives any conflict of interest and consents to the Ventura County Counsel advising and representing the Ventura LAFCO for LAFCO 03-03 City of Oxnard Reorganization – Fifth & Patterson, LLC, and LAFCO 03-04 Calleguas Municipal Water District Annexation – Fifth & Patterson, LLC.

This resolution was adopted on March 19, 2002.

AYES:

NOES:

ABSTAINS:

Dated: _____
Chair, Ventura Local Agency Formation Commission

Copies: County Counsel

**RESOLUTION OF THE VENTURA LOCAL AGENCY
FORMATION COMMISSION CONSENTING TO THE
COUNTY COUNSEL ADVISING AND REPRESENTING
LAFCO AND WAIVING ANY CONFLICT OF INTEREST
CONCERNING THE FORMATION OF A COUNTY OPEN
SPACE DISTRICT**

WHEREAS, the Ventura Local Agency Formation Commission (LAFCO) pursuant to a Memorandum of Agreement with the County of Ventura has designated the Ventura County Counsel as its legal counsel; and

WHEREAS, the County of Ventura is considering initiating proceedings with LAFCO for the possible formation of a County Open Space District; and

WHEREAS, the County Counsel has been and will continue to advise and represent the County of Ventura concerning the formation of a County Open Space District and such representation could result in an actual or potential conflict of interest with LAFCO; and

WHEREAS, the California Rules of Professional Conduct require that legal counsel disclose any potential or actual conflict of interest and obtain the informed written consent of the Oxnard Airport Authority and the Commission before advising or representing LAFCO regarding LAFCO proceedings relating to the formation of a County Open Space District, and

WHEREAS, it will be beneficial to LAFCO to have the Ventura County Counsel advise and represent both LAFCO and the County of Ventura due to the commonality of issues and interests relating to the consideration of the formation of a County Open Space District by both LAFCO and the County of Ventura,

NOW, THEREFORE, BE IT RESOLVED by the Ventura Local Agency Formation Commission that the Commission hereby waives any conflict of interest and consents to the Ventura County Counsel advising and representing the Ventura LAFCO for all matters relating to the formation of a County Open Space District.

This resolution was adopted on March 19, 2002.

AYES:

NOES:

ABSTAINS:

Dated: _____

Chair, Ventura Local Agency Formation Commission

Copies: Ventura County Board of Supervisors
County Counsel